



DAVE HARDY
CABINET SECRETARY

**STATE OF WEST VIRGINIA
DEPARTMENT OF REVENUE**

STATE CAPITOL
CHARLESTON, WEST VIRGINIA

OFFICE OF THE SECRETARY

September 12, 2019

Ken Ward, Jr.
The Charleston Gazette-Mail
1001 Virginia Street, East
Charleston, WV 25301

Re: FOIA Request, August 30, 2019

Mr. Ward:

I am in receipt of your August 30, 2019 Freedom of Information Act request in which you requested copies of all correspondence and other records concerning the Pleasants Power Plant, House Bill 207, and "efforts/legislation to avoid closure of the plant." As I mentioned in my correspondence to you dated September 9, 2019, the State Tax Division is sole custodian of its records and as such, the Department of Revenue will not produce records compiled by the State Tax Division.

In response to your FOIA request, I have enclosed copies of e-mails between Department of Revenue personnel and various parties and some reports that reference the Pleasants Power Plant. I have not included copies of e-mails that include any confidential tax data as disclosure is prohibited under Section 11-10-5d of the West Virginia Tax Procedure & Administration Act, and working drafts of the proposed B & O tax amendment, and any e-mails related to or forwarding the same as they are protected by the deliberative process privilege and would be characterized as predecisional and deliberative, and would also be protected by attorney/client privilege. Also, pursuant to W.Va. Code §11B-1-6, information that would be confidential under the laws of this State when provided to a division, agency, board, commission, or office within the Department of Revenue shall be confidential when that information is provided to the Secretary of Revenue or to an employee of the Secretary.

This completes the Department of Revenue's response to your FOIA request.

Please be advised that the Department of Revenue reserves its rights to assert, as appropriate, any of the FOIA exemptions set forth in West Virginia Code § 29B-1-4, as well as the deliberative process privilege, the attorney-client privilege, and any relevant common law privilege with respect to your FOIA request dated August 30, 2019, and any other FOIA request.

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With respect to your FOIA request, you are further advised that you have the right to institute proceedings for injunctive or declaratory relief in the Circuit Court of Kanawha County, West Virginia.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Leslie Dillon", with a stylized flourish at the end.

LESLIE DILLON
Deputy General Counsel